

In the Iowa Supreme Court

In the Matter of Amending Rule)	
1.274(3) Regarding Cy Pres)	
Distributions in Class Action)	Order
Money Judgments and Striking)	
References to Rule 1.904(2) from)	
Rules 1.981(3) and 1.1603(3))	

The Iowa Supreme Court makes changes to two different aspects of the Iowa Rules of Civil Procedure in chapter 1 of the Iowa Court Rules.

First, regarding Iowa's "Cy Pres" rule,* the supreme court adopts the following amendment to Iowa Court Rule 1.274(3), which adds the Iowa Supreme Court Lawyer Trust Account Commission to the list of identified possible recipients of any undistributed funds in a class action money judgment award:

Rule 1.274 Relief afforded.

....

1.274(3) If a class is awarded a judgment for money, the distribution shall be determined as follows:

....

e. The court shall determine what amount of the funds available for the payment of the judgment cannot be distributed to members of the class individually because they could not be identified or located or because they did not claim or prove the right to money apportioned to them. The court after a hearing shall distribute that amount, in whole or in part, to one or more states as unclaimed property or to the defendant or to the Iowa Supreme Court Lawyer Trust Account Commission.

*The cy pres common law doctrine originated in the trust context whereby a court changes a written instrument to match as closely as possible the donor's intent with a gift to charity to prevent failure of the gift. In the context of class action recoveries under Iowa Court Rule 1.274(3)(e), the court may utilize the cy pres doctrine to distribute class funds that otherwise cannot be distributed to class members.

Second, the supreme court strikes from the Iowa Rules of Civil Procedure two separate references to rule 1.904(2) to avoid potential confusion arising from rule amendments the court adopted in November 2016. In that previous order, the court adopted new provisions in rule 1.904 to allow that a timely rule 1.904(2) motion extends the appeal deadline, subject to an exception for successive motions. The court now removes reference to rule 1.904(2) from rule 1.981(3) by striking the last sentence of the rule and from rule 1.1603 by striking rule 1.1603(3), as set forth below:

Rule 1.981 On what claims. Summary judgment may be had under the following conditions and circumstances:

....

1.981(3) *Motion and proceedings thereon.* The motion shall be filed not less than 60 days prior to the date the case is set for trial, unless otherwise ordered by the court. Any party resisting the motion shall file a resistance within 15 days, unless otherwise ordered by the court, from the time when a copy of the motion has been served. The resistance shall include a statement of disputed facts, if any, and a memorandum of authorities supporting the resistance. If affidavits supporting the resistance are filed, they must be filed with the resistance. Notwithstanding the provisions of rules 1.431 and 1.435, the time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion, unless a shorter time is ordered by the court. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. ~~If summary judgment is rendered on the entire case, rule 1.904(2) shall apply.~~

....

Rule 1.1603 Contested case proceedings; intervention; schedule; applicability of rule 1.904(2).

....

~~1.1603(3) The provisions of rule 1.904(2) shall apply.~~

The amendments to rules 1.274(3), 1.981(3), and 1.1603(3) as set forth in this order are temporarily adopted, effective immediately. The amendments will permanently take effect November 14, 2017, subject to Legislative Council review consistent with the provisions of Iowa Code section 602.4202.

Dated this 14th day of September, 2017.

The Iowa Supreme Court

By Mark S. Cady
Mark S. Cady, Chief Justice